

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Jeffrey Tyler Wilson,)	C/A No. 0:18-cv-00563-DCC
)	
Plaintiff,)	
)	
vs.)	
)	ORDER
Lt. Mickey Boland, Sgt. Lee, Nurse Donna))	
Miller,)	
)	
Defendants.)	
_____)	

This matter is before the Court on Plaintiff's Complaint alleging violations of his civil rights pursuant to 42 U.S.C. § 1983. ECF No. 1. On September 10, 2018, Defendant Miller filed a motion for summary judgment. ECF No. 48. Plaintiff filed a Response in Opposition, and Defendant Miller filed a Reply. ECF Nos. 51, 52. On October 10, 2018, Defendants Boland and Lee filed a motion for summary judgment. ECF No. 53. Plaintiff's response was originally due by October 24, 2018. Plaintiff was given two extensions of time to respond to the motion. He failed to file a response. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Paige J. Gossett for pre-trial proceedings and a Report and Recommendation ("Report"). On February 19, 2019, the Magistrate Judge issued a Report recommending that Defendant Miller be dismissed without prejudice because Plaintiff failed to exhaust his administrative remedies and that Defendants Boland and Lee be dismissed with prejudice for lack of prosecution. ECF No. 79. The Magistrate

Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff has filed no objections, and the time to do so has passed.¹

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the Report’s recommendation. Accordingly, the Court adopts the Report by reference in this Order. Defendant Miller’s Motion for Summary Judgment [48] is **GRANTED** and Defendant Miller

¹ Plaintiff filed a notice of change of address on April 18, 2019—more than one month after objections to the Report were due. On the same day, out of an abundance of caution for a pro se Plaintiff, another copy of the Report was placed in the mail and the deadline for objections was reset. Plaintiff again failed to file objections to the Report.

is dismissed without prejudice. Defendants Boland and Lee are dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(b) because Plaintiff failed to prosecute this case against them and their motion for summary judgment [53] is **FOUND as MOOT**.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

May 30, 2019
Spartanburg, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.